

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

PER JENS BENSON,

Defendant-Appellee.

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UNPUBLISHED

March 27, 2007

No. 266820

Wayne Circuit Court

LC No. 05-004731

Before: Hoekstra, P.J., and Markey and Wilder, JJ.

PER CURIAM.

The prosecutor appeals by leave granted from a circuit court order granting defendant's motion to suppress evidence obtained after a traffic stop. We reverse and remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This Court reviews a trial court's factual findings at a suppression hearing for clear error, but reviews the ultimate ruling on a motion to suppress de novo. *People v Davis*, 250 Mich App 357, 362; 649 NW2d 94 (2002). The trial court's factual findings are clearly erroneous if, after review of the record, this Court is left with a definite and firm conviction that a mistake has been made. *People v Givans*, 227 Mich App 113, 119; 575 NW2d 84 (1997). "It is the prosecutor's burden to show that a search and seizure challenged by a defendant were justified by a recognized exception to the warrant requirement." *People v Galloway*, 259 Mich App 634, 638; 675 NW2d 883 (2003).

A police officer may briefly stop and detain a person to investigate possible criminal activity if he has a reasonable suspicion based on specific and articulable facts that the person detained has committed or is committing a crime. *People v Shankle*, 227 Mich App 690, 693; 577 NW2d 471 (1998). A police officer may rely on information obtained from the Law Enforcement Information Network (LEIN) in determining whether a crime has been committed. *People v Freeman*, 240 Mich App 235, 236-237; 612 NW2d 824 (2000). An officer may also stop a vehicle if he witnesses a civil infraction. *People v Laube*, 154 Mich App 400, 407; 397 NW2d 325 (1986); MCL 257.742. It is a civil infraction to drive any vehicle required to be registered unless a valid registration plate is attached to the vehicle. MCL 257.255.

The trial court found that Officer Dergis did not have a valid basis for initiating a traffic stop, stating she did not discover defendant's invalid license plate until after she had already made the stop. We are convinced that the trial court clearly erred in those findings. Dergis testified that she stopped defendant in part "for the not valid plate." She also testified that she ran a LEIN check on the plate before stopping defendant and learned that the plate was invalid. While the trial court indicated that Dergis had testified that she was in her patrol car checking the status of the license plate after the stop, a review of the transcript indicates that Dergis testified that she obtained the information about the invalid plate before the stop and was in her patrol car checking the status of defendant's driver's license after the stop. Because Dergis had information from the LEIN system that defendant had an invalid license plate, she had a reasonable suspicion for initiating a traffic stop.

Officer Kahanec arrived on the scene while Dergis was still in her patrol car. He ordered defendant out of the car and conducted a patdown search for weapons, which resulted in the discovery of cocaine. The prosecutor argues that the officer had probable cause to arrest defendant based on a citizen's complaint and thus could search defendant's person incident to that arrest.

A police officer may arrest a person without a warrant if the officer has reasonable cause to believe that a felony has been committed and reasonable cause to believe that the person committed it. MCL 764.15(1)(c). "Probable cause to arrest exists where the facts and circumstances within an officer's knowledge and of which he has reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed." *People v Champion*, 452 Mich 92, 115; 549 NW2d 849 (1996). Information that identified citizens or police officers supply is presumptively reliable. *People v Powell*, 201 Mich App 516, 523; 506 NW2d 894 (1993).

In this case, Kahanec had reviewed a bulletin from Officer Cox regarding defendant. Cox advised that a named citizen, Tom Ingle, had reported ongoing problems with defendant. In particular, Ingle reported that while riding in defendant's car, defendant threatened him with a gun, pointing the weapon at him to force him to confess to stealing defendant's tools. Such information was sufficient to support a reasonable belief that defendant had feloniously assaulted Ingle. Because Kahanec had probable cause to arrest defendant, he could search defendant's person incident to the arrest, even if the search temporally preceded the arrest. *Champion, supra* at 115-116. It is irrelevant that defendant was not arrested specifically for the assault. It is the objective facts known to an officer that determine whether his conduct was justified, not whether the officer subjectively relied on those facts in taking such action. *People v Arterberry*, 431 Mich 381, 384; 429 NW2d 574 (1988). Because the traffic stop and search were lawful, the trial court erred in suppressing the evidence regarding the cocaine taken from defendant's person.

After defendant was arrested, his car was impounded. An inventory search produced additional contraband. A valid inventory search is an exception to the warrant requirement. *People v Houstina*, 216 Mich App 70, 77; 549 NW2d 11 (1996). The trial court suppressed the evidence found during the inventory search because it determined that the initial stop was unlawful. In light of our conclusion that the stop was lawful and because defendant offers no

other basis for invalidating the search of the vehicle, we conclude that the trial court erred in suppressing the evidence.

We reverse and remand for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Jane E. Markey  
/s/ Kurtis T. Wilder

I concur in result only.

/s/ Joel P. Hoekstra